

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 719 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No.

DEENABEN W/O NATVARBHAI

SAVJIBHAI VAGHELA

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for the Petitioner .
MR RM CHAUNA, AGP, for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 28/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 17-1-98 passed by the Police Commissioner, Ahmedabad City, under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"), has filed this petition under Article 226 of the Constitution of India challenging the legality and validity of the order of detention.

There are as many as six prohibition cases registered against the petitioner which are all at the police investigation stage, as can be seen from the grounds of detention supplied to the petitioner. Besides these cases, four witnesses , whose identity has not been disclosed by the detaining authority in exercise of the privilege claimed under section 9 (2) of the Act, have given statements against the petitioner for the alleged incidents of 25-12-97 and 7-12-97 when they were beaten either on the ground that the concerned witness was an informant of the police or on the ground that he had refused to keep the country liquor belonging to the petitioner in his house. On both the occasions the associates of the petitioner at her instance started beating the witnesses. On both these occasions, many people gathered to watch the incident of beating. However, the people started running helter-skelter when the associates of the petitioner rushed towards the crowd with open knife and an atmosphere of fear and terror was created and the even tempo of life was disturbed.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true , the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type . Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also vitiated . The order of detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed. The order of detention dated 17-1-98 is quashed and set aside. The detenu Smt Deenaben wd/o Natverbhai Savjibhai Vaghela is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs. Writ to be sent to Rajkot Jail.

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